



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1950

APR 6 2012

ACTION MEMO

MEMORANDUM FOR ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE
ARMY

SUBJECT: Chief of Engineers Environmental Advisory Board – Membership Balance Plan and
Charter Renewal Approval

The membership balance plan (TAB A) and the renewed charter (TAB B) for the Chief of Engineers Environmental Advisory Board (hereafter referred to as “the Board”) are approved. A copy of the Board’s charter will be provided to the Board and its Designated Federal Officer (DFO) once my Advisory Committee Management Officer (ACMO) files the charter with the Library of Congress, the Congressional oversight committees, and the General Services Administration.

As part of the charter renewal process, this office, in consultation with the Department of Defense Office of General Counsel (DoD OGC), has affirmed that the eight individuals designated and appointed to the Board, once approved by the Secretary of Defense, shall be appointed to serve as special government employee members. The following points apply:

- (a) Individual members approved for appointment or renewal by the Secretary of Defense, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109 and to serve as special government employee members. Those who are full-time or permanent part-time Federal officers or employees shall be appointed to serve as regular government employee members.
- (b) Each member shall be notified in writing of the Secretary of Defense’s approval decision. In preparing your appointment or renewal of appointment letters, the Board’s DFO should consult the ACMO and DoD OGC, to include the Standards of Conduct Office. At a minimum, the letters shall contain the following:
 - i. That their appointment to serve on the Board is without compensation, with the exception of travel and per diem.
 - ii. That they are appointed to serve as special government or regular government employee members, as appropriate.
 - iii. An explanation of the difference between serving as special government employees and representative members, and a summary of the applicable ethics requirements, to include whether they are required to file a Confidential Financial Disclosure Report.

As the Board’s DoD sponsor, you are responsible for:

- (a) Ensuring that the Board's DFO attends all Board and subcommittee meetings for the entire duration of each and every meeting.
- (b) Ensuring that the DFO and the Board fully comply with all governing Federal statutes and regulations, to include DoD Instruction 5105.04, "Department of Defense Federal Advisory Committee Management Program."
- (c) Ensuring that all Board and subcommittee work is based upon written tasks or terms of reference assigned to the Board by the Secretary of Defense, the Deputy Secretary of Defense or you, as the sponsor. All tasks or terms of reference are subject to public review and, at a minimum, shall include:
 - i. A description of the problem or policy to be analyzed and the DoD decision maker for the matter(s) under consideration.
 - ii. Authority for the Board members to have access to DoD officials and DoD data that is pertinent to the matter(s) under consideration.
 - iii. A budget limitation under which the Board members must operate.
 - iv. A date by which the Board or subcommittee must submit its written conclusions (advice and recommendations) to the DoD decision maker.
- (d) Providing adequate support to the Board and its membership, and ensuring that the Board's membership is not unduly or inappropriately influenced by Federal employees or any special interest group.
- (e) Ensuring that the Board members are appointed according to DoD policy and that they do not serve on the Board until all personnel and ethics paperwork is processed by the appropriate offices.
- (f) Ensuring that all DoD and other agency documents provided to the Board are marked according to governing DoD policy and procedures.
- (g) Monitoring the implementation status of any recommendation adopted by the DoD or the Congress, and ensuring that this information is available for future inquiries.

If you should have any questions about the Department's program, the Federal governance and compliance requirements, the charter renewal, or the membership balance plan, please contact the Acting ACMO, Mr. Jim Freeman at 703-692-5952, or by email at James.Freeman@osd.mil.



Michael L. Rhodes
Director

Attachments:
As stated

TAB A

Membership Balance Plan

Chief of Engineers Environmental Advisory Board

Agency: Department of Defense

1. Authority: The Secretary of Defense, under the provision of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix) and 41 CFR § 102-3.50(d) (agency authority), established the Chief of Engineers Environmental Advisory Board (hereafter referred to as “the Board”).

2. Mission/Function: The Board shall provide the Secretary of Defense, through the Secretary of the Army, Assistant Secretary of the Army (Civil Works), and the Chief of Engineers (U.S. Army Corps of Engineers), independent advice and recommendations on matters relating to environmental issues facing the U.S. Army Corps of Engineers.

3. Points of View: The Board has not more than 10 members. The members are eminent authorities in the fields of natural sciences (e.g., biology, ecology), social sciences (e.g., anthropology, community planning), or a related science. To the extent practical the Board membership will include at least two members whose expertise are focused in the natural sciences, two members whose expertise are focused in the social sciences and two members whose expertise is focused in other related sciences. Individual members’ experience and qualifications may be based in academia, nongovernment organizations, Federal or local governments, or private industry.

The Department of Defense, in selecting potential candidates for the Board, reviews the educational, experiential, and professional credentials of individuals and bases its selection on this review and the subject matter expected to be handled by the Board. The Department of Defense has found that viewing the complex environmental issues facing the Board through an interdisciplinary advisory committee provides the Department and, more importantly, the American public, with a broader understanding of the issues on which to base subsequent policy decisions.

Each member, based upon his or her individual and professional experiences, provides his or her best judgment on the matters before the Board, and he or she does so without representing any particular point of view and in a manner that is free from conflict of interest. Board members appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C § 3109 and to serve as special government employees. The appointments of Board members shall be renewed on an annual basis by the Secretary of Defense.

The Board’s membership balance is not static and the Secretary of Defense may change the membership based upon work assigned to the Board by the Secretary of Defense, the Deputy Secretary of Defense, or the Board’s sponsor. In addition, the Department, unless otherwise directed by an Act of Congress or Presidential directive, does not use representative members on DoD established or supported advisory committees.

4. Other Balance Factors: A mix of experts specializing in ecosystem functions, cultural resources, social interactions, the physical environment, and the dynamic interactions of these components of the human environment is critical. Next, it is important to have representatives with knowledge and/or experience from most of the major ecological regions of the country. A mix of perspective is achieved by having members with backgrounds in the public and private sectors, academicians, non government organizations and practitioners.

Membership Balance Plan

Chief of Engineers Environmental Advisory Board

5. Candidate Identification Process: The Department of Defense, in selecting potential candidates for this advisory committee, reviews the educational and professional credentials of individuals with extensive professional experience in the natural sciences (e.g. biological, ecological), social sciences (e.g. anthropologist, community planning), and other related sciences. Potential candidates may be identified by the Board's staff, current or past Board members, senior environmental scientists of the Corps and other agencies, academicians, and in some instances senior Corps officials.

Once potential candidates are identified, the Designated Federal Officer, in consultation with the Board's staff Chairperson and not less than three senior environmental scientists from the Corps, will review the credentials of each individual and narrow the list of potential candidates. The Designated Federal Officer will forward the list of potential candidates to the Secretary of the Army through the Assistant Secretary of Army for Civil Works. During the Secretary of the Army review, the Secretary will strive to achieve a balance between the educational and professional credentials of the individual candidates, and the subject matter that is likely to be reviewed by the Board.

Prior to nominating the potential candidates, the list of candidates will undergo a review by the DoD Office of General Counsel and the Office of the Advisory Committee Management Officer to ensure compliance with Federal and DoD governance requirements; for example, compliance with the advisory committee's charter and membership balance plan. Following this review, the Secretary of the Army formally nominates the potential candidates to the Secretary of Defense for approval. Pursuant to DoD policy, only the Secretary of Defense or the Deputy Secretary of Defense can invite or approve the appointment of individuals to advisory committees established or supported by the DoD.

Following Secretary of Defense or Deputy Secretary of Defense approval, the candidates are required to complete the necessary appointment paperwork, to include meeting ethics requirements stipulated by the Office of Government Ethics for advisory committee members.

The Secretary of Defense may approve the appointment of Board members for a three year term of service. The Secretary of Defense may authorize consecutive terms of service up to the limit established in the current charter. The Secretary of Defense may authorize consecutive terms of service beyond the limits established in the charter if conditions call for an exception. The same term of service limitations also apply to any DoD authorized subcommittees.

6. Subcommittee Balance: The Department of Defense, when necessary, and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees deemed necessary to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the advisory committee's sponsor.

The Secretary of Defense or the Deputy Secretary of Defense shall approve the appointment of subcommittee members in the same manner as Board appointments are made, and these individuals may come from the parent committee or new nominees, as recommended by the advisory committee's sponsor and based upon the matters under consideration.

Membership Balance Plan
Chief of Engineers Environmental Advisory Board

As required by the Board's charter, these subcommittees operate under the provisions of FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b), governing Federal statutes and regulations, and governing DoD policies/procedures.

7. Other: The DoD adheres to the rules and regulations issued by the Office of Government Ethics and the administration's prohibition against registered Federal lobbyists.

8. Prepared:

TAB B

CHARTER
CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

1. Committee's Official Designation: The Committee shall be known as the Chief of Engineers Environmental Advisory Board (hereafter referred to as "the Board").
2. Authority: The Secretary of Defense, under the provision of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix) and 41 CFR § 102-3.50(d) (agency authority), established the Board.
3. Objectives and Scope of Activities: The Board shall provide independent advice and recommendations on matters relating to environmental issues facing the U.S. Army Corps of Engineers, as set out in (4) below.
4. Description of Duties: The Board shall provide the Secretary of Defense, through the Secretary of the Army, Assistant Secretary of the Army (Civil Works), and the Chief of Engineers (U.S. Army Corps of Engineers), independent advice and recommendations on matters relating to environmental issues facing the U.S. Army Corps of Engineers.
5. Agency or Official to Whom the Committee Reports: The Board shall report to the Secretary of Defense, through the Secretary of the Army, the Assistant Secretary of the Army (Civil Works), and the U.S. Army Corps of Engineers. The Secretary of the Army may act upon the Board's advice and recommendations.
6. Support: The Department of Defense (DoD), through the U.S. Army Corps of Engineers, shall provide support as deemed necessary for the performance of the Board's functions, and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b), governing Federal statutes and regulations, and governing DoD policies/procedures.
7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating costs, to include travel, meeting, and contract support, is approximately \$238,000.00 and 1.2 full-time equivalents.
8. Designated Federal Officer: The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with governing DoD policies and procedures.

In addition, the Designated Federal Officer is required to be in attendance at all Board and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the Designated Federal Officer, a properly approved Alternate Designated Federal Officer shall attend the entire duration of the Board or subcommittee meeting.

The Designated Federal Officer, or the Alternate Designated Federal Officer, shall call all of the Board's and subcommittees' meetings; prepare and approve all meeting agendas; adjourn any meeting when the Designated Federal Officer, or the Alternate Designated Federal Officer, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Board reports.

9. Estimated Number and Frequency of Board Meetings: The Board shall meet at the call of the Designated Federal Officer, in consultation with the Board's Chairperson. The estimated number of Board meetings is two per year.
10. Duration of the Board: The need for this advisory function is on a continuing basis; however, it is subject to renewal every two years.
11. Termination of the Board: The Board shall terminate upon completion of its mission or two years from the date when this Charter is filed, whichever is sooner, or unless the Secretary of Defense extends it.
12. Board Membership, Designation and Compensation: The Board shall be composed of not more than 10 members who are eminent authorities in the field of natural (e.g. biological, ecological), social (e.g. anthropologist, community planner), and related sciences.

All Board members shall be appointed by the Secretary of Defense and all member appointments require annual renewal by the Secretary of Defense.

The Secretary of Defense may approve the appointments of Board members for three year terms of service; however, no member, unless authorized by the Secretary of Defense may serve more than two consecutive terms of service. This same term of service limitation also applies to any DoD authorized subcommittees.

The Board Membership shall select the Board's Chairperson from the total membership.

Board Members appointed by the Secretary of Defense, who are not full-time Federal officers or employees, shall be appointed under the authority of 5 U.S.C. § 3109, and serve as special government employees. Board Members shall, with the exception of travel and per diem for official travel, serve without compensation.

Each Board member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

13. Subcommittees: The Department, when necessary, and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees deemed necessary to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the advisory committee's sponsor.

Such subcommittees shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Board; nor can any subcommittee or its members update or report directly to the Department of Defense or any Federal officers or employees.

All subcommittee members shall be appointed in the same manner as the Board members; that is, the Secretary of Defense shall appoint subcommittee members even if the member in question is already a Board member. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the subcommittee of three years; however, no member shall serve more than two consecutive terms of service on the subcommittee.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109, and shall serve as special government employees, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official Board related travel, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b), governing Federal statutes and regulations, and governing DoD policies/procedures.

14. Recordkeeping: The records of the Board and its subcommittees shall be handled according to section 2, General Records Schedule 26 and governing DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).

15. Charter Filing Date: